

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 20-1358V

KATHERINE CUMMINGS and JARED
CUMMINGS, Parents of O.C., a Minor,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: October 10, 2023

Emily Beth Ashe, Anapol Weiss, Philadelphia, PA,, for Petitioner.

Kyle Edward Pozza, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION ON ATTORNEY'S FEES AND COSTS¹

On October 9, 2020, Katherine Cummings and Jared Cummings, parents of O.C., a minor, filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the "Vaccine Act"). Petitioners allege that O.C. suffered idiopathic thrombocytopenic purpura which was caused by the measles mumps rubella vaccine received on March 7, 2019. Petition, ECF No. 1. On January 11, 2023, I issued a decision awarding compensation to Petitioners based on the Respondent's proffer. ECF No. 44.

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

Petitioners has now filed a motion for attorney's fees and costs, requesting an award of \$32,457.70 (representing \$32,047.00 in attorney's fees and \$410.70 in attorney's costs). Petitioner's Application for Attorney's Fees and Costs ("Motion") filed Aug. 8, 2023, ECF No. 51. In accordance with General Order No. 9, counsel for Petitioners represents that Petitioners incurred \$1,000.00 in out-of-pocket expenses. *Id.* at 2.

Respondent reacted to the motion on Aug. 14, 2023, indicating that he is satisfied that the statutory requirements for an award of attorney's fees and costs are met in this case, but deferring resolution of the amount to be awarded to my discretion. Respondent's Response to Motion at 2-3, ECF No. 52. Petitioner did not file a reply thereafter.

I have reviewed the billing records submitted with Petitioner's request. In my experience, the request appears reasonable, and I find no cause to reduce the requested hours or rates. Furthermore, Petitioner has provided supporting documentation for all claimed costs. Attachment to Motion at 24-41. Respondent offered no specific objection to the rates or amounts sought.

The Vaccine Act permits an award of reasonable attorney's fees and costs for successful claimants. Section 15(e). Accordingly, I hereby GRANT Petitioner's Motion for attorney's fees and costs. Petitioner is awarded the total amount of **\$33,457.70** as follows:

- **A lump sum of \$32,457.70, representing reimbursement for fees and costs, in the form of a check payable jointly to Petitioner and Petitioner's counsel and;**
- **A lump sum of \$1,000.00, representing reimbursement for Petitioner's costs, in the form of a check payable to Petitioner.**

In the absence of a timely-filed motion for review (see Appendix B to the Rules of the Court), the Clerk of Court shall enter judgment in accordance with this Decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing their right to seek review.